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Making an ImPACT: Congressmen Work to Revamp Decade Old Federal Animal Rights Legislation to Offer New Protections

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Making an ImPACT: Congressmen Work to Revamp Decade Old Federal Animal Rights Legislation to Offer New Protections



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No matter the political party, animal lovers are naturally concerned with animal's safety across state lines. Currently, animal rights are predominately monitored by state statute; though this could be changing soon if the Preventing Animal Cruelty and Torture Act (PACT), a bipartisan bill introduced by Republican Vern Buchanan and Democrat Ted Deutch, is passed.[2] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn2) These lawmakers have proposed to expand the 2010 law that federally criminalized videos depicting torturous killings of animals, but not the acts themselves.[3] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn3) PACT would fill this major gap in the current federal law.[4] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn4)

There are few federal laws that consider animal safety, and those that do often leave many inhumane practices unchecked.[5] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn5) In 2010, Congress passed a bill that made it illegal to create and distribute videos of "animal crushing," a cruel practice designed to satisfy disturbing sexual fetishes.[6] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn6) Animal crushing is when animals are "intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury." [7] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn7) This bill, though beneficial, failed to criminalize the horrendous acts themselves and requires significant expansion to

fully protect animal rights. [8] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn8) Animal safety has primarily been left to state to control.[9] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn9) All fifty states have felony animal cruelty laws, but they range drastically within each state, not only determining punishments but also what constitutes cruelty.[10] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn10) The Animal Legal Defense Fund publishes a report each year that assesses and ranks each state's animal protection laws.[11] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn11) For twelve consecutive years, Kentucky has ranked at the bottom with the weakest animal protect laws in the country.[12] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn12)

State laws and regulations fail to fully protect animals for a number of reasons. When animal abuse cases arise, it is often unclear where the acts of cruelty took place, causing jurisdictional discrepancy for prosecuting.[13] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn13) Animal abuse also often occurs over state lines further trite and make prosecution more difficult, or even impossible for the state prosecutors.[14] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn14)

PACT, introduced in early 2019, could be the necessary solution to strengthen the existing law. It would add a new provision to make the intentional act of animal crushing punishable by fines and a prison sentence of up to seven years.[15] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn15) Further, it would correspond with the existing state laws by prohibiting "animal crushing in or affecting interstate or foreign

commerce” not necessarily for the creation or distribution of a ‘crush’ video.[16] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn16) The new bill maintains the exceptions of the current act, such as hunting and agricultural needs, and extends them to include conduct that is “(1) medical or scientific research, (2) necessary to protect the life or property of a person, (3) performed as part of euthanizing an animal, or (4) unintentional.”[17] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn17)

When the original bill was passed, the United States Supreme Court found this law violated freedom of speech under the First Amendment of the United States Constitution.[18] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn18) The Court, further explained that the language of the act was too broad because animal cruelty was defined by state governments, meaning what could be criminal in some states would not be in others; therefore, the law could not be applied to the distribution of the crush videos.[19] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn19)

This new bill would help alleviate this problem by federally criminalizing the acts themselves and allowing the police greater ability to capture and convict animal abusers. The president of the Humane Society Legislative Fund, Sara Amundson told *People* magazine that “[a]nimal cruelty isn’t self-contained by state but moves across state lines, so this bill is critical to stomping out crime.”[20] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn20)

It is unclear if PACT will pass both the Senate and the House. A previous version of PACT passed the Senate twice and had 283 sponsors in the House during the last Congressional Session but according to the Humane Society, was not allowed to reach the House floor due to former Representative Robert W. Goodlatte. [21] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn21) Now, due to the bipartisan support and the opposing chairman’s retirement, the chances for the bill passing are much higher.[22] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_edn22)

The passage of PACT, in response to the easing of animal abuser prosecution, will support the protection of animals across the country, indicating a clear humanitarian desire to end animal cruelty at a federal level in the United States.

[1] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref1) Staff Editor, *Kentucky Law Journal*, Volume 108; J.D. Candidate, The University of Kentucky College of Law (2021); B.A., University of Kentucky (2017).

[2] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref2) Niraj Chokshi, *There’s No Federal Ban on Animal Cruelty. Lawmakers Want to Change That.*, N.Y. Times (Jan. 30, 2019), <https://www.nytimes.com/2019/01/30/us/animal-cruelty-bill-felony.html> (<https://www.nytimes.com/2019/01/30/us/animal-cruelty-bill-felony.html>).

[3] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref3) *Id.*

[4] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref4) Cole Higgins, *A Proposed Bill Will Make Animal Cruelty a Federal Felony*, CNN (Jan. 28, 2019), <https://www.cnn.com/2019/01/28/us/animal-cruelty-federal-felony-bill-trnd/index.html> (<https://www.cnn.com/2019/01/28/us/animal-cruelty-federal-felony-bill-trnd/index.html>).

[5] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref5) *Laws that Protect Animals*, Animal Legal Defense Fund, <https://aldf.org/article/laws-that-protect-animals/> (<https://aldf.org/article/laws-that-protect-animals/>) (last visited Oct. 3, 2019) [hereinafter ALDF].

[6] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref6) *Preventing Animal Cruelty and Torture (PACT) Act*, Animal Welfare Institute, <https://awionline.org/content/preventing-animal-cruelty-and-torture-pact-act> (<https://awionline.org/content/preventing-animal-cruelty-and-torture-pact-act>) (last visited Oct. 3, 2019); Kelli Bender, *Reintroduced Bill Seeks to Make Malicious Animal Cruelty a Federal Felony*, *People* (Jan. 28, 2019), <https://people.com/pets/pact-bill-animal-cruelty-federal-felony/> (<https://people.com/pets/pact-bill-animal-cruelty-federal-felony/>).

[7] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref7) *Id.*; 18 U.S.C.S. § 48.

[8] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref8) Chokshi, *supra* note 2.

[9] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref9) Higgins, *supra* note 4

10 ALDF, *supra* note 5.

[11] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref11) 2018 U.S. Animal Protection Laws RankingsSM Comparing Overall Strength & Comprehensiveness, Animal Legal Defense Fund 3 (2018), <https://aldf.org/wp-content/uploads/2019/01/Animal-Protection-Laws-of-the-United-States-2018-full-report.pdf> (<https://aldf.org/wp-content/uploads/2019/01/Animal-Protection-Laws-of-the-United-States-2018-full-report.pdf>).

[12] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref12) *Id.*

[13] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref13) *Preventing Animal Cruelty and Torture (PACT) Act*, Animal Welfare Institute, <https://awionline.org/content/preventing-animal-cruelty-and-torture-pact-act> (<https://awionline.org/content/preventing-animal-cruelty-and-torture-pact-act>) (last visited Oct. 3, 2019).

[14] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref14) *Id.*

[15] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref15) *Id.*

[16] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref16) *Preventing Animal Cruelty and Torture (PACT) Act (Federal)*, Animal Legal Defense Fund, <https://aldf.org/project/preventing-animal-cruelty-and-torture-pact-act/> (https://aldf.org/project/preventing-animal-cruelty-and-torture-pact-act/) (last visited Oct. 3, 2019).

[17] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref17) 18 U.S.C.S. § 48; 2019 Legis. Bill Hist. US H.B. 724.

[18] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref18) *United States v. Stevens*, 559 U.S. 460, 482 (2010).

[19] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref19) *Id.*

[20] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref20) *Bender*, *supra* note 6.

[21] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref21) *Chokshi*, *supra* note 2.

[22] (applewebdata://DF17B8E8-577B-4DF5-91F0-146D2F467323#_ednref22) *Id.*



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